

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CASTRO GERABAN, ACCUSED-APPELLANT.

G.R. No. 137048. May 24, 2001

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PER CURIAM:

For automatic review pursuant to Article 47 of the Revised Penal Code as amended by section 22 of R.A. No. 7659, is the decision[1] of 17 November 1998 of the Regional Trial Court of the Fifth Judicial Region, Branch 65, Bulan, Sorsogon, in Criminal Case No. 90, finding accused-appellant Castro Geraban (hereafter CASTRO) guilty of the crime of rape committed against his own daughter, Venus Geraban (hereafter VENUS), and sentencing him to suffer the extreme penalty of death and to indemnify VENUS the amount of P50,000 as moral and exemplary damages.

This case was commenced with the filing on 21 February 1996 of a complaint for rape[2] by VENUS' mother Dolores Geraban before the Municipal Trial Court of Bulan, Sorsogon. The complaint was supported by the sworn statements of Dolores Geraban,[3] VENUS[4] and Rosita Gutlay.[5] CASTRO did not file his counter-affidavit as required by the court. Finding sufficient probable cause against him, the court forwarded the record of the case to the Office of the Provincial Prosecutor of Sorsogon for appropriate proceedings.[6]

On 21 March 1996 the Office of the Provincial Prosecutor of Sorsogon filed an information[7] charging CASTRO with rape as defined and penalized under Article 335 of the Revised Penal Code, as amended by Section 11 of R.A.7659. The accusatory portion of the information states:

That on or about the 20th day of February 1996, at about 4:00 o'clock in the morning, at Barangay Managa-naga, Municipality of Bulan, Province of Sorsogon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused armed with a bolo, with lewd design and by means of force, violence and intimidation, did then and there willfully, unlawfully and feloniously have carnal knowledge of one Venus Geraban a fifteen-year old girl, his own daughter, against her will and without her consent, to her damage and prejudice.

Attended by aggravating circumstance of relationship and moral ascendancy considering that the victim is the daughter of the accused.

Contrary to law.

Upon arraignment[8] on 10 June 1996, with the assistance of counsel, CASTRO entered a plea of not guilty. Trial on the merits followed.

The prosecution presented as witnesses Dr. Estrella Payoyo, Rosita Gutlay, Dolores Gutlay Geraban, SPO2 Eulogio P. Santos and VENUS. Their combined testimonies establish the following material operative facts:

VENUS, who claimed to be fifteen years old at the time of the incident, is the eldest among the four children of CASTRO with his wife Dolores Gutlay Geraban. After a serious quarrel with Dolores over a piece of land last 15 February 1996, CASTRO and Dolores separated for the seventh time. Dolores was then renting with their four

children -- VENUS, Richard, Melvin and Christian -- a small house at Brgy. Managa-naga, Bulan, Sorsogon. In the late evening of 19 February 1996, CASTRO made a surprise visit to his family to persuade Dolores and the children to return to their residence at Brgy. San Vicente, Bulan, Sorsogon. His plea was ignored, and since it was already late, Dolores agreed to the request of CASTRO to sleep at the rented house.[9] CASTRO then slept beside Dolores along with Richard, Melvin and Christian in the sleeping area, which was four (4) meters long and two and a half (2 1/2) meters wide. VENUS however slept separately from her parents and siblings.[10]

At about 4:00 in the early morning of 20 February 1996, VENUS was awakened by CASTRO who asked her to transfer to the spot vacated by Dolores who had left early, as was her usual routine to deliver some bread. VENUS obeyed. She then lay in between her two sleeping younger brothers, Richard and Melvin. CASTRO however objected and insisted that VENUS should sleep beside him. VENUS hesitantly obeyed. While VENUS was lying on her side with her back turned against him, CASTRO suddenly placed his leg on top of VENUS. Vexed by his move, VENUS brushed aside his leg; but instantaneously, CASTRO pulled her by the shoulder and turned her face up. Then he placed himself on top of her and started to choke her. VENUS tried to struggle but he threatened to kill her and her siblings with the "bolo" he was holding. Thereafter, CASTRO released his "bolo" and with the use of his left hand pulled down VENUS' shorts and panty. At this point, VENUS tried to reach CASTRO's face to scratch him but as she was effectively pinned by CASTRO's lower body, all she could reach was CASTRO's back. With VENUS already naked from her waist down, CASTRO started to remove his briefs, but since VENUS continued to resist him, he slid his briefs sideways and put out his penis which he then successfully inserted into the vagina of the struggling VENUS. VENUS felt pain; During the struggle, VENUS hit one of the three cans located just below her feet which caused it to fall on the floor. The brothers of VENUS woke up and started to cry. CASTRO got distracted and because of this, VENUS was able to push him away from her. VENUS returned to her sleeping area and cried. With dawn breaking, VENUS surreptitiously went out of their house and proceeded to the house of her grandmother, Rosita Outlay, located a few houses away. VENUS forthwith told Rosita of CASTRO's dastardly act. VENUS and Rosita then reported the matter to the police authorities of Bulan.[11]

VENUS also declared that she had been similarly abused by CASTRO sometime in July 1994 somewhere in Las Piñas.[12] He invited her to see a movie. But, instead of bringing her to a movie house, he brought her to the barracks of the construction site where he was working and ravished her there.

Dra. Estrella Payoyo testified that she conducted a physical and genital examination on VENUS. She noted the presence of old healed lacerations at 3:00 and 9:00 o'clock positions in the hymen of VENUS and marked redness on the lower part of her labia minora.[13] Dr. Payoyo opined that the redness could be the result of scratching or by sexual contact;[14] and that the old healed laceration in the hymen could have been caused by sexual intercourse or by a foreign body inserted into VENUS' private parts possibly a year before the date of the examination.[15]

CASTRO invoked denial and alibi for his defense. He claimed that on 2 February 1996, he and his wife Dolores had a quarrel over a small lot which he bought for P350.00. Because of this incident, his wife together with all their four children moved to his parents-in-law's place at Brgy. Managa-naga, leaving him alone at their house in Brgy. San Vicente.[16]

CASTRO recalled that on 16 February 1996 he slapped VENUS at the house in Brgy. Managa-naga after the latter told him that he gave priority to his drinking than to the welfare of his family. The incident happened after he declined the request of Dolores for him to sleep at his parents-in-law's house.[17]

As for the date in question, CASTRO declared that when he returned to the house in Brgy. Managa-naga at 4:30 o'clock in the early morning of 20 February 1996, VENUS was not around. She was at the Summit Bakery,

tending the store, and only Richard and Melvin were in the house.

In its decision of 17 November 1998,[18] the trial court found CASTRO guilty beyond reasonable doubt of the crime of rape. It gave credence to the positive, unequivocal and unswerving testimony of VENUS that she was sexually abused by CASTRO in the early morning of 20 February 1996. The trial court further held that against the damning positive evidence of the prosecution, CASTRO's self-serving negative evidence cannot stand. Moreover, no ulterior motive was sufficiently established against the witnesses for the prosecution.

The trial court also found as inconsequential the lapses in the testimony of VENUS considering her tender age and lack of exposure to court proceedings. It held as immaterial her confusion as to the date when the alleged first rape was committed as it was merely intended to establish propensity on the part of CASTRO to commit the crime of rape.

In imposing the death penalty, the trial court appreciated the presence of the special circumstance of relationship and minority provided for in Article 335 of the Revised Penal Code, as amended by Sec.11 of R.A. 7659. It found undisputed these facts: (1) VENUS was about 15 years old at the time of commission of the crime, as testified to by VENUS and without objection from the defense; and (2) CASTRO is VENUS' legitimate father.

It then decreed:

WHEREFORE, in view of the foregoing, accused CASTRO GERABAN is found guilty by proof beyond reasonable doubt of the crime of RAPE penalized in accordance with Sec. 11 of R.A. 7659 (Death Penalty Law) classifying this offense as one of the heinous crimes and hereby sentences him to suffer the penalty of DEATH; to indemnify the victim VENUS GERABAN the amount of P50,000.00 by way of moral and exemplary damages without subsidiary imprisonment in case of insolvency, and to pay the costs.

SO ORDERED.

As earlier stated, the case is now before us on automatic review.

In his Appellant's Brief, CASTRO imputes upon the trial court the commission of the following errors:

I

THE TRIAL COURT ERRED IN NOT FINDING THAT THE TESTIMONY OF THE PRIVATE COMPLAINANT WAS PUNCTURED WITH MATERIAL IMPROBABILITIES AND UNIMAGINABLE SITUATION THEREBY CASTING GRAVE DOUBT ON THE CRIMINAL CULPABILITY OF THE ACCUSED-APPELLANT.

II

THE TRIAL COURT ERRED IN CONVICTING ACCUSED-APPELLANT OF THE CRIME CHARGED BY RELYING ON THE WEAKNESS OF THE DEFENSE EVIDENCE RATHER THAN ON THE STRENGTH OF THE EVIDENCE OF THE PROSECUTION.

In support thereof, CASTRO contends that the testimony of VENUS is simply incredible, full of improbabilities and inconsistent with human experience. More specifically, he cites: (1) the impossibility of committing the alleged sexual assault in the presence of VENUS' two younger brothers who, although asleep, were just 1 1/2 arms length away from VENUS and CASTRO; (2) the absurdity of consummating penile penetration when VENUS' body and CASTRO's body were one and a half feet away from each other; (3) VENUS' incredulous claims regarding the details of the alleged violation of her honor; and (4) the absence of fresh lacerations and spermatozoa in her organ during examination. CASTRO adds that while admittedly the evidence for the defense is weak, yet weaker still is the evidence for the prosecution in light of the material improbabilities in its evidence.

Accordingly, he should be acquitted, as the prosecution failed to establish with moral certainty his culpability.

In the Appellee's Brief, the Office of the Solicitor General supports the trial court's finding and conclusion that CASTRO is guilty beyond reasonable doubt of raping VENUS, his own daughter. His bare denials and alibi cannot overcome the categorical testimony of VENUS that he violated her. Moreover, there was no evidence of ulterior motive on the part of VENUS to implicate him in the commission of the crime. However, the Office of the Solicitor General recommends that an additional amount of P75,000 as civil indemnity be awarded to VENUS.

It is doctrinally settled that in rape cases the lone testimony of the rape victim, if credible, is sufficient to convict.[19] Indeed, from the nature of the crime the only evidence that can oftentimes be offered to establish the guilt of the accused is the complainant's testimony.[20] No woman would openly admit that she was raped and consequently subject herself to an examination of her private parts, undergo the trauma and humiliation of a public trial and embarrass herself with the need to narrate in detail how she was raped unless she was in fact raped.[21] This is especially true when the accusing words are directed against a close relative, especially the father, as in this case.[22] A young unmarried lass does not ordinarily file a rape complaint against anybody, much less her own father, if it is not true.[23]

In the case at bar, no iota of evidence was shown that VENUS' account of her defilement was a result of falsehood. CASTRO's insinuation of ill-motive on the part of VENUS in the filing of the rape charge against him is too lame and flimsy. Parental punishment is not a good reason for a daughter to falsely accuse her father of rape.[24] Filipino children's reverence and respect for elders is too deeply ingrained in Filipino children and families.[25] Thus, it would take depravity for a young daughter to concoct such a story of defloration against her own father unless she had really been aggrieved.

Similarly, the imputation by CASTRO of ill-motive on the part of his wife and mother-in-law does not persuade us. It is unnatural for a parent, more so for a mother, to use her offspring as an engine of malice especially if it will subject her child to the humiliation, disgrace and even stigma attendant to a prosecution for rape, if she were not motivated solely by the desire to incarcerate the person responsible for her child's defilement.[26] Other than his self-serving testimony, CASTRO failed to substantiate his claims that his fight with Dolores over a parcel of land could have caused the filing of the case against him. In the same vein, no grandmother would expose her granddaughter of innocent age to the ignominy and ordeal of a public trial of rape unless the charge is true.[27] Furthermore, the record reveals that Rosita Gutlay lost no time in reporting the bestial act of CASTRO to the police authorities of Bulan immediately after VENUS told her about the dastardly act.

We also cannot sustain the argument of CASTRO that rape was impossible to commit in the presence of VENUS' two younger brothers. Firstly, per testimony of VENUS, her two younger brothers were in deep slumber when CASTRO molested her. Secondly, rapists are not deterred from committing their odious act by the presence of people nearby. Rape is not impossible even if committed in the same room where the rapist's spouse was sleeping or in a small room where other household members also slept.[28] Hence, it was neither impossible nor incredible for CASTRO to have raped VENUS even in the presence of her two younger brothers. There is no rule that a woman can only be raped in seclusion.[29]

CASTRO's claim that there could have no penile penetration since his and VENUS' body were one and a half feet away is without merit. A meticulous dissection of VENUS' testimony would reveal that the distance of one and a half feet referred to the distance between CASTRO's face to VENUS' face.[30]

We are likewise not persuaded by CASTRO's claim that the details of the story of VENUS are incredible. The matters stressed by him are irrelevant and trite which could not impair the credibility of VENUS.

The reference to the absence of fresh lacerations and spermatozoa deserves scant consideration. The absence of external injuries does not negate rape,[31] nor is the presence of spermatozoa an essential element of rape.[32] 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.[33]

In light of the positive declaration of VENUS proving CASTRO's criminal culpability, his bare denial must fail. A mere denial, just like alibi, constitutes a self-serving negative evidence which cannot be accorded greater evidentiary weight than the declaration of credible witnesses who testify on affirmative matters.[34] In the present case, no other credible witness was presented by CASTRO to support and substantiate his claim that VENUS was in the Summit Bakery when he arrived at the Managa-naga house in the early morning of 20 February 1996.

Consequently, we affirm CASTRO's conviction for rape under Article 335 of the Revised Penal Code, as amended by Section 11 of Republic Act No.7659, which was the governing law at the time said crime was committed.[35] As amended, Article 335 reads:

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;
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 occasion thereof, the penalty shall be reclusion perpetua death.

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

The evidence on record establishes beyond reasonable doubt that CASTRO had carnal knowledge of his daughter VENUS by force or intimidation. He was armed with a bolo, he choked and threatened to kill VENUS and her siblings if she made any noise.

We now come to the question of whether the death penalty should be imposed on CASTRO. In imposing the death penalty the trial court applied the first circumstance under the last paragraph of Article 335, as amended by Section 11 of R.A. 7659, which reads:

The death penalty shall also be imposed if the crime 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. x x x"

The information in this case alleges the minority of VENUS and her relationship to CASTRO, as the latter's daughter.

However, the record of this case reveals that the prosecution did not present the birth certificate or any other

official document to prove the allegation in the Information that VENUS was indeed fifteen (15) years old when the rape in question was committed. The prosecution relied on the testimonies of VENUS and her mother. But are their testimonies sufficient as proof of the minority of VENUS for the purpose of imposing the death penalty in qualified rape?

In *People vs. Javier*[36] we held-

However, it is significant to note that the prosecution failed to present the birth certificate of the complainant. Although the victim's age was not contested by the defense, proof of the age of the victim is particularly necessary in this case considering the victim's age was then 16 year old which is just 2 years below the minority age of 18. In this day of modernism there is hardly a difference between a 16 year old girl and an 18 year old one insofar as physical features and attributes are concerned. A physically developed 16 year old lass may be mistaken for an 18 old young woman in the same manner that a frail looking 18 year old lady may pass as a 16 year old minor. Thus, it is in this context that independent proof of the actual age of the rape victim becomes vital and essential so as to remove an iota of doubt that the victim is indeed under 18 years of age as to fall under the qualifying circumstances enumerated in R.A. 7659.

This ruling was reiterated in *People vs. Cula*,[37] to wit:

At all events, it is the burden of the prosecution to prove with certainty the fact that the victim was below 18 when the rape was committed in order to justify the imposition of the death penalty. The record of the case is bereft of any independent evidence, such as the victim's duly certified Certificate of Live Birth, accurately showing private complainant's age. The fact that accused-appellant Manuel has not denied the allegation in the complaint that Maricel was 16 years old when the crime was committed cannot make up for the failure of the prosecution to discharge its burden in this regard.

And then in *People vs. Tipay*[38] we further declared that—

This does not mean however, that the presentation of the certificate of live birth is at all times necessary to prove minority of a victim of tender age who may be below 10 is quite manifest and the court can take judicial notice thereof. The crucial years pertain to the ages of 15 to 17 where minority may seem dubitable due to one's physical appearance. In this situation, the prosecution has the burden of proving with certainty the fact that the victim was under 18 years of age when the rape case was committed to justify the imposition of the death penalty under the above cited provision.

The record of the case at bar is bereft of any independent evidence which would accurately show complainant's age. That complainant's age was alleged in the information and/or complaint as under 16 years is not sufficient. Nor does the lack of denial on the part of the accused-appellant excuse the prosecution from discharging its burden in this regard.

However, in *People vs. de la Cruz*,[39] we accepted the testimony of the victim's mother to prove the former's minority despite the absence of documentary evidence to substantiate her alleged minority because:

In the case at bar, however, the prosecution proved the minority of the victim beyond reasonable doubt. Delia, the victim's mother, categorically testified in the hearing of October 9, 1996 that her daughters were both (14) years of age at the time the rape incidents complained of xxx

There is no reason to doubt Delia's testimony. As a mother, she has personal knowledge of the ages of her children. Her testimony was never challenged by the accused who could have presented the victim's birth certificate. Delia's testimony stood un rebutted by any other evidence.

Thus, while it may be said that the corroborative testimony of the victim's mother may suffice to establish the minority of the victim in lieu of independent documentary evidence, the same must however, be received with caution.

In the instant case, VENUS declared that she was fifteen years old on the date of her alleged violation. However, and in contrast thereto, the testimony of Dolores, who is more qualified than VENUS to testify on the matter is not clear.

Dolores is quite uncertain as to VENUS' age.[40] As a mother, she should have personal knowledge of the ages[41] and birth of her children. Thus, she could have stated the exact age of VENUS or the date of her birth.

While the prosecution failed to prove with certainty the minority of VENUS, it however, proved that appellant committed the crime of rape with the use of a deadly weapon, a circumstance alleged in the information. On direct-examination VENUS testified:

Q

What was he doing when he was already on top of you?

A

His right hand was on my throat choking me.

Q

And what did you feel when you were choked?

A

I could not shout because he was exerting full force on my throat.

Q

What hand did he use in choking you?

A

The right hand.

Q

When you were being choked, were you able to see where his left hand was?

A

He told me that I should not shout because my siblings are just nearby he could hit me then with his bolo so I did not shout anymore.

Q

When was the first time that you saw that bolo in his possession?

A

He always has that bolo because he uses it to slice and fillet fish at the market

Q

And you said that you saw the bolo on his left hand while he was choking his right hand, what was he doing?

A

He released the bolo by his side.[42]

Rape with the use of a deadly weapon is punishable under the third paragraph of Article 335, as amended, by reclusion perpetua to death. Pursuant to Article 63 of the Revised Penal Code, if the commission of the crime was attended by a mitigating circumstance the imposable penalty would be reclusion perpetua; if it was attended by a generic aggravating circumstance, the penalty shall be death; and if no modifying circumstance attended the commission thereon the penalty shall be reclusion perpetua.

In the present case, the Information alleges relationship, which is an alternative circumstance under Article 15 of the Revised Penal Code, as an aggravating circumstance. In crimes against chastity, such as rape, relationship is aggravating.[43] The prosecution undisputedly proved the father-daughter relationship between CASTRO and VENUS. CASTRO categorically admitted that VENUS is his child with wife DOLORES. Thus, on cross-examination he declared:

Q

Mr. Witness, you are the father of Venus Geraban, is it not?

A

Yes, sir.

Q

And you are also the husband of Dolores Geraban. Am I right?

A

Yes, sir.

Q

And aside from Venus Geraban, you still have other children with your wife?

A

Yes, sir.[44]

Accordingly, the penalty of death can properly be imposed on CASTRO.

Finally, we observed that the award of P50,000 was designated by the trial court as moral and exemplary damages. This should be modified. Currently, moral damages for rape is fixed at P50,000. Moral damages are imposed in rape cases involving young girls between thirteen (13) and nineteen (19) years of age, taking into account the immeasurable havoc wrought on their youthful feminine psyche. Likewise, accused-appellant should be ordered to indemnify the complainant in the amount of P75,000.[45] Exemplary damages in the amount of P25,000 is also in order to deter fathers with perverse tendencies and aberrant sexual behaviors from sexually abusing their daughters.[46]

Four members of the Court maintain their position that R.A. No.7659, insofar as it prescribes the death penalty is unconstitutional. Nevertheless, they submit to the ruling of the Court, by a majority vote, that the law is constitutional and that the death penalty should be accordingly imposed.

WHEREFORE, the judgment of the Regional Trial Court of Bulan, Sorsogon, Branch 65, in Criminal Case No.90 finding accused-appellant CASTRO GERABAN guilty beyond reasonable doubt of the crime of rape, penalized under Article 335 of the Revised Penal Code, as amended by Section 11 of R.A. 7659 and sentencing him to suffer the death penalty is hereby AFFIRMED, with MODIFICATION that the award of P50,000 should be for

moral damages only. Furthermore, accused-appellant is hereby ORDERED to pay VENUS GERABAN the additional amounts of P75,000 as civil indemnity and P25,000 as exemplary damages.

In accordance with Art. 83 of the Revised Penal Code, as amended by Section 25 of Republic Act No. 7659, upon finality of this decision, let certified true copies thereof and of the record of this case be forwarded forthwith to the office of the President for possible exercise of the clemency and pardoning power.

Cost de oficio.

SO ORDERED.

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

[1] Original Record (OR), 176-197; Rollo, 23-44. Per Judge Adolfo G. Fajardo.

[2] OR, 13.

[3] Id., 15; Exhibit "D."

[4] Id., 19; Exhibit "G."

[5] Id., 30; Exhibit "C."

[6] Id., 39.

[7] Id., p. 1-2.

[8] Id., 62.

[9] TSN, 9 December 1996, 17-21.

[10] Id., 31-32.

[11] TSN, 18 February 1997, 21-31.

[12] Id., 38-39.

[13] Exhibit "A" to "A-2" OR, 35.

[14] TSN, 15 October 1996, 5.

[15] Id., 19.

[16] TSN, 30 March 1998, 3-4.

[17] Id., 5-6.

[18] Supra note 1.

[19] People v. Delovino, 247 SCRA 637, 650 [1995]; People v. Antido, 278 SCRA 425, 440 [1997]; People v. Aloro, G.R. No. 129208, 14 September 2000.

[20] People v. Tismo, 204 SCRA 535 [1994]; People v. Antonio, 233 SCRA 283 [1994].

[21] People v. Gagto, 253 SCRA 468 [1996]; People v. Abrecinoz, 281 SCRA 72 [1997]; People v. Fundano, 291 SCRA 356, 368 [1998]; People v. Aloro, supra note 19.

[22] People v. Alvero, G.R. Nos. 134536-38, 5 April 2000.

[23] People v. Sacapano, 313 SCRA 650, 660 [1999].

[24] People v. Alama, G.R. Nos. 134122-27, 7 February 2000.

[25] People v. Burce, 269 SCRA 293, 314 [1997]; People v. Alvero, supra note 22.

[26] People v. Escobar, 281 SCRA 498 [1997]; People v. Silvano, 309 SCRA 366 [1999]; People v. Francisco, G.R. No. 136252, 20 October 2000.

[27] People v. Aloro, supra note 19.

[28] People v. Ramos, 296 SCRA, 559, 571 [1998]; People v. Villanueva GR No. 135330, 31 August 2000.

[29] People v. Talaboc, 256 SCRA 441, 449 [1996]; People v. Burce, supra note 25, at 313[1997]; People v. Gonzales, G.R. No. 133859, 24 August 2000.

[30] TSN, 18 February 1997, 27-28.

[31] People v. Managaytay, 305 SCRA 316 [1999].

[32] People v. Andan, 269 SCRA 95, 98 [1997]; People v. Caballes, 274 SCRA 83 [1997].

[33] People v. Dones, 254 SCRA 696, 698 [1996]; People v. Juntilla, 314 SCRA 568, 571 [1999]; People v. Villanueva, supra note 28.

[34] People v. Alvero, supra note 22.

[35] Pursuant to R.A. No. 8353, other wise known as the Anti-Rape Law of 1997, rape ahs been reclassified as a crime against persons and is now covered by Chapter Three of Title Eight of the Revised Penal Code and Articles 266-1, 266-B, 266-C and 266-D thereof.

[36] 311 SCRA 122 [1999].

[37] G.R. No. 133146, 28 March 2000.

[38] G.R. No. 131472, 28 March 2000.

[39] G.R. No. 131167-68, 23 August 2000.

[40] TSN, 9 December 1996, 18.

[41] People v. Balgos, G.R. No. 126115, 6 January 2000; People v., de la Cruz, G.R. No. 131167-68, 23 August 2000.

[42] TSN, 18 February 1997, 24-25.

[43] People v. Lucas, 232 SCRA 537 [1994].

[44] TSN, 30 March 1998, 8.

[45] People v. Prades, 293 SCRA 411, 415 [1998].

[46] People v. Matrimonio, 215 SCRA 613, 616 [1995].

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